

Request for City Council Action

Date: January 6, 2015

| | |
|--|--|
| Agenda Section: Consent Agenda No. 6 | Originating Department: City Manager |
| Item: Ordinance Amending Title Two (2) of the Carbondale Revised Code as it Pertains to Class B Liquor Licenses No. 6.5 | Approved: |

Background:

At the December 16, 2014 City Council meeting, an ordinance was approved increasing the number of Class B1 and B2 Liquor Licenses from 16 to 20. A Class B1 license allows for the sale of beer and wine only, by the drink, for consumption on the premises. A Class B1 license holder may also manufacture and sell a retail micro-brewed beer by the drink for consumption on the premises and by the package for consumption off the premises, provided that the beer is brewed on the premises. A Class B2 license allows for the sale of all alcoholic liquors, by the drink, for consumption on the premises. A Class B2 license holder may manufacture and sell retail micro-distilled spirits or micro-brewed beer by the drink for consumption on the premises and by the package for consumption off the premises, provided that the beer or spirits are brewed on the premises. The Class B2 license was created in 2011.

As part of the discussion, the Council directed City staff to develop an ordinance creating a Class B3 Liquor License for "stand-alone" Video Gaming Establishments. A review of how other Illinois municipalities regulate video gaming did not yield significant information. In fact, only two communities who responded, have licenses specific to video gaming; those being Olney and Springfield.

The proposed ordinance contains the following main points:

- Sale of Alcohol: The license shall authorize the sale of alcoholic liquors by the drink for consumption on the premises as a secondary business to the business of video gaming.
- Revenue: The minimum annual revenue from video gaming shall be 51%.
- License fee: The minimum fee shall be \$500.00 and the maximum fee shall be \$2,250.00.
- Grandfather provision: Any B1 or B2 license granted for the primary purpose of video gaming during license year 2014-2015 shall be converted to a B3 for license year 2015-2016.
- Separation: Class B3 licenses must maintain a 500 foot separation from any other liquor licensed establishment.
- License cap: The number of Class B3 licenses shall be capped at five.

Recommended Action:

The City Council is requested to approve an Ordinance Amending Title Two (2) of the Carbondale Revised Code as it pertains to Class B Liquor Licenses.

| | | | | |
|-------------------------------------|---------------------------------|-------------------------------|----------------------|-----------------------------------|
| Engineering Approval Obtained | Finance Approval Obtained | Legal Approval Obtained | Approval Obtained | Manager's Approval Obtained |
|-------------------------------------|---------------------------------|-------------------------------|----------------------|-----------------------------------|

Council Action: Motion by _____ 2nd by _____ to _____

**CITY OF CARBONDALE, ILLINOIS
ORDINANCE NO. 2015-**

**AN ORDINANCE AMENDING TITLE TWO (2) OF THE CARBONDALE REVISED
CODE AS IT PERTAINS TO CLASS B LIQUOR LICENSES**

**ADOPTED BY THE CITY COUNCIL
OF THE CITY OF CARBONDALE, ILLINOIS
THE 6TH DAY OF JANUARY, 2015**

Published in pamphlet form by authority of the City Council of the City of Carbondale, Jackson County, Illinois, this 7th day of January, 2015.

CERTIFICATE OF PUBLICATION

I, Jennifer R. Sorrell, the duly qualified and acting City Clerk of the City of Carbondale, Illinois, and the official custodian of the records of said City, do hereby certify that this Ordinance was published in pamphlet form by authority of the City Council on the 7th day of January, 2014.

Jennifer R. Sorrell, City Clerk

ORDINANCE NO. 2015-

AN ORDINANCE AMENDING TITLE TWO (2) OF THE CARBONDALE REVISED CODE AS IT PERTAINS TO CLASS B LIQUOR LICENSES

WHEREAS, the City of Carbondale, Illinois is a home rule unit of local government under the Illinois Constitution, 1970, Article VII, Section 6; and

WHEREAS, pursuant to Article VII, Section 6(a), of the Illinois Constitution, 1970, the City of Carbondale may exercise any power and perform any function pertaining to its government and affairs including, but not limited to, the power to regulate for the protection of the public health, safety, morals and welfare; and

WHEREAS, Title 2, Chapter 4, Section 9, allows for the classification of Class B Liquor Licenses for the retail sale of alcoholic liquors within the City of Carbondale; and

WHEREAS, the Title 2, Chapter 4, Section 8 establishes the license fees required for Class B licenses available; and

WHEREAS, the City Council of the City of Carbondale finds that it is in the best interest of the City of Carbondale to amend Chapter 2 of Title 4, Sections 8 and 9, of the Carbondale Revised Code as it relates to the types of Class B licenses available to establish a new license for video gaming establishments.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CARBONDALE, ILLINOIS, AS FOLLOWS:

SECTION 1. That Title 2, Chapter 4, Section 8 A. is amended to read:

A. Annual Fee: The annual fees for the licenses issued under this chapter shall be as follows:

1. Class A1: All class A1 licensees shall pay a fee of the occupancy permit number times a multiplier of 4.5, with a minimum of two hundred twenty five dollars (\$225.00) and a maximum of six hundred seventy five dollars (\$675.00).

2. Class A2: All class A2 licensees shall pay a fee of the occupancy permit number times a multiplier of 13.5, with a minimum of seven hundred fifty dollars (\$750.00) and a maximum of two thousand two hundred fifty dollars (\$2,250.00).

3. Class A3: All class A3 licensees shall pay a fee of the occupancy permit number times a multiplier of 13.5, with a minimum of seven hundred fifty dollars (\$750.00) and a maximum of two thousand two hundred fifty dollars (\$2,250.00).

4. Class B1: All class B1 licensees shall pay a fee of the occupancy permit number times a multiplier of 7.5, with a minimum of three hundred seventy five dollars (\$375.00) and a maximum of one thousand one hundred twenty five dollars (\$1,125.00).

5. Class B2: All Class B2 licensees shall pay a fee of the occupancy permit number times a multiplier of 13.5, with a minimum of seven hundred fifty dollars (\$750.00) and a maximum of two thousand two hundred fifty dollars (\$2,250.00).

6. Class B3: All class B3 licensees shall pay a fee of the occupancy permit number times a multiplier of 13.5 with a minimum of five hundred dollars (\$500.00) and a maximum of two thousand two hundred fifty dollars (\$2,250.00).

~~6~~ 7. Class C1: All class C1 licensees shall pay a fee of two thousand two hundred fifty dollars (\$2,250.00).

~~7~~ 8. Class C2: All class C2 licensees shall pay a fee of two thousand two hundred fifty dollars (\$2,250.00).

~~8~~ 9. Class D1: All class D1 licensees shall pay a fee of one hundred dollars (\$100.00).

~~9~~ 10. Class D2: All class D2 licensees shall pay a fee of two thousand two hundred fifty dollars (\$2,250.00).

~~10~~ 11. Class E: All class E licensees shall pay a fee of one thousand one hundred twenty five dollars (\$1,125.00).

~~11~~ 12. Class F1: All class F1 licensees shall pay a fee of one hundred dollars (\$100.00); however, the local liquor control commission may waive such fee upon good cause shown.

~~12~~ 13. Class F2: All class F2 licensees shall pay a fee of one hundred dollars (\$100.00); however the local liquor control commission may waive such fee upon good cause shown.

~~13~~ 14. Class G: All class G licensees shall pay a fee of one thousand one hundred twenty five dollars (\$1,125.00).

~~14~~ 15. Class H1: All class H1 licensees shall pay a fee of one hundred dollars (\$100.00) with the option of paying an additional one hundred dollars (\$100.00) for sale by the drink.

~~15~~ 16. Class H2: All class H2 licensees shall pay a fee of nine hundred dollars (\$900.00).

~~16~~ 17. Class 1: All class 1 licensees shall pay a fee of fifty dollars (\$50.00).

SECTION 2. That Title 2, Chapter 4, Section 9 B.2. be amended to read:

2-4-9 B.2.

Class B2 licenses shall authorize the retail sale of all alcoholic liquors, by the drink, for consumption on the premises only, subject to the terms, conditions, and restrictions of this and all other pertinent sections of this code. The holder of a B2 license shall not allow any person under the minimum entry age to enter into or remain upon the premises for which the license is held.

Except that any class B2 licensee, upon application to and approval by the local liquor control commission, may manufacture and sell at retail microdistilled spirits or microbrewed beer by the drink for consumption on the premises and by the package for consumption off the premises, provided that the beer or spirits are brewed on the premises and the licensee submits a fee of one hundred dollars (\$100.00) in addition to all fees as required pursuant to this title.

The total number of Class B 1 and 2 licenses issued by the local liquor control commission will not exceed twenty (20). (Ord. 2011-42)

SECTION 3. That Title 2, Chapter 4, Section 9B has a new subsection 3 added to read:

2-4-9 B.3.

Class B3 licenses shall authorize retail sale of alcoholic liquors, by the drink, for consumption on the premises only, subject to the terms, conditions, and restrictions of this and all other pertinent sections of this code, and as a secondary business to the business of video gaming. This license shall be issued only to a business that operates primarily for the purpose of video gaming with at least fifty-one percent (51%) of its gross revenue from video gaming. Any applicant or licensee who receives at least fifty-one percent (51%) of their gross revenue from video gaming shall apply for a Class B3 license. Any current B1 or B2 licensee

licensed for license year 2014-2015 who receives at least fifty-one percent (51%) of their gross revenue from video gaming, shall be converted to a B3 license.

The total number of Class B3 licenses issued by the local liquor control commission will not exceed five (5). No Class B3 license shall be issued for any location within the City that is within five hundred feet (500ft) of any other liquor licensed establishment.

SECTION 4. That Title 2, Chapter 4, Section 21 is changed to read as follows:

2-4-21: LOCATION RESTRICTIONS:

No license shall be issued for the sale at retail of any alcoholic liquor within one hundred feet (100') of any church or school, other than an institution of higher learning, hospital, home for the aged or indigent persons or for veterans, their spouses or children or any military or naval station; provided, that this prohibition shall not apply to hotels offering restaurant service, civic centers, regularly organized clubs, or to restaurants, food shops, or grocery stores ~~or other places where the sale of alcoholic liquors is not the principal business carried on~~, nor shall it apply to the renewal of a license for the sale at retail of alcoholic liquor on premises within one hundred feet (100') of any church or school where such church or school has been established since the issuance of the original license. In the case of a church, the distance of one hundred feet (100') shall be measured to the nearest part of any building used for worship services or educational programs and not to the property boundaries

SECTION 5. All of the remaining sections of Title 2 of the Carbondale Revised Code shall remain in full force and effect.

SECTION 6. That all ordinances and parts thereof in conflict herewith are expressly repealed and are of no other force and effect.

SECTION 7. The repeal of any ordinance by this Ordinance shall not affect any rights accrued or liability incurred under said repealed ordinance to the effective date hereof. The provisions of this Ordinance, insofar as they are the same or substantially the same as those of any prior ordinance, shall be construed as a continuation of said prior ordinance.

SECTION 8. That it is the intention of the City Council of the City of Carbondale that this Ordinance and every provision thereof shall be considered separable and the invalidity of

any section, clause, or provision of this Ordinance shall not affect the validity of any other portion of this Ordinance.

SECTION 9. That the City Council of the City of Carbondale finds that the subject matter of this ordinance pertains to the government and affairs of the City of Carbondale and is passed pursuant to the provisions of Article VII, Section 6(a) of the 1970 Illinois Constitution.

SECTION 10. That this Ordinance shall take effect upon its passage, approval, recording, and publication in pamphlet form in accordance with law.

APPROVED: _____
Donald D. Monty, Acting Mayor

ATTEST: _____
Jennifer R. Sorrell, City Clerk

APPROVED AS TO LEGALITY AND FORM:

P. Michael Kimmel, City Attorney